

JESSE S. FINLAYSON, SBN 179443
MICHAEL R. WILLIAMS, SBN 196863
FINLAYSON, AUGUSTINI & WILLIAMS LLP
110 Newport Center Drive, Suite 100
Newport Beach, California 92660
Telephone: (949) 759-3810
Facsimile: (949) 759-3812
Email: jfinlayson@faw-law.com; mwilliams@faw-law.com

Attorneys for Defendant and Counterclaimant
CASHCALL, INC.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

TRICIA LECKLER, ON BEHALF OF
HERSELF AND ALL OTHERS SIMILARLY
SITUATED,

Plaintiffs,

v.

CASHCALL, INC.,

Defendant.

CASE NO. C 07-04002 SI

**DEFENDANT CASHCALL, INC.'S
LIMITED OPPOSITION TO PLAINTIFF
TRICIA LECKLER'S REQUEST FOR
JUDICIAL NOTICE IN SUPPORT OF HER
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

**[Opposition to Plaintiff's Motion for Partial
Summary Judgment Filed Concurrently With
This Opposition]**

Hearing:

Date: May 2, 2008
Time: 9:00 a.m.
Place: Courtroom 10, 19th Floor
Judge: Hon. Susan Illston

AND RELATED COUNTERCLAIMS.

1 Defendant CashCall, Inc. ("CashCall") objects, on a limited basis, to Plaintiff Tricia Leckler's
2 Request for Judicial Notice in support of her Motion for Partial Summary Judgment. In particular,
3 CashCall objects to the Court taking judicial notice of the Time Warner Cable Subscriber Service
4 Agreement (Ex. 3 to the Request for Judicial Notice) on the grounds that such document, and its
5 contents, do not qualify for judicial notice in that they are not generally known within the territorial
6 jurisdiction of this Court and are not capable of accurate and ready determination by resort to sources
7 whose accuracy cannot reasonably be questioned. Accordingly, CashCall requests that the Court
8 deny Plaintiff's Request for Judicial Notice with respect to the Time Warner Cable Subscriber Service
9 Agreement (Ex. 3 to the Request for Judicial Notice).

10 DATED: March 31, 2008

11 JESSE S. FINLAYSON
12 MICHAEL R. WILLIAMS
13 FINLAYSON, AUGUSTINI & WILLIAMS LLP

14 By: /s/ Michael R. Williams
Michael R. Williams

15 Attorneys for Defendant and Counterclaimant
16 CASHCALL, INC.

17 [Leckler - Limited Objection to Request for Judicial Notice](#)
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, Wendy S. Mills, declare as follows:

I am employed in the County of Orange, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 110 Newport Center Drive, Suite 100, Newport Beach, California 92660, in said County and State. On **March 31, 2008**, I served the following document(s):

DEFENDANT CASHCALL, INC.'S LIMITED OPPOSITION TO PLAINTIFF TRICIA LECKLER'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF HER MOTION FOR PARTIAL SUMMARY JUDGMENT

☒ **CM/ECF ELECTRONIC SERVICE:** The following are registered as CM/ECF Users with the Court, and have consented to electronic service:

Counsel for Plaintiff:

Joshua B. Swigart – josh@westcoastlitigation.com

on the parties stated below:

Counsel for Plaintiff:

Douglas J. Campion, Esq.

LAW OFFICES OF DOUGLAS J. CAMPION

411 Camino Del Rio South, Suite 301

San Diego, CA 92108

by the following means of service:

- ☒ **BY MAIL:** I placed a true copy of the above-mentioned document(s) in a sealed envelope addressed as indicated above, on the above-mentioned date. I am familiar with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after date of deposit for mailing in the affidavit.
- ☐ **BY PERSONAL SERVICE:** I provided a true copy of the above-mentioned document(s) to a messenger for personal delivery to each person named above, at the address(es) shown above, before 5:00 p.m. on the above-mentioned date.
- ☐ **BY ELECTRONIC MAIL:** I caused the above-mentioned document(s) to be transmitted electronically to the e-mail address of the addressees indicated above. I am readily familiar with this firm's Microsoft Outlook electronic mail system and each such document was duly served electronically on the above-mentioned date, and the transmission was reported as complete and without error.
- ☐ **BY FACSIMILE:** I caused the above-mentioned document(s) to be transmitted by facsimile machine to the parties and numbers indicated above, on the above-mentioned date, pursuant to Rule 2.306. The facsimile machine I used complied with Rule 2.306 and no error was reported by the machine. Pursuant to Rule 2.306, I caused the machine to print a transmission record of the transmission, a copy of which is maintained by this office.
- ☐ **BY UPS—NEXT DAY AIR:** I placed a true copy of the above-mentioned document(s) in a sealed envelope or package designated by the United Parcel Service with delivery fees paid or provided for, addressed to the person(s) as indicated above, on the above-mentioned date, and I deposited same in a box or other facility regularly maintained by United Parcel Service or delivered same to an authorized courier or driver authorized by United Parcel Service to receive documents.

I am employed in the office of Michael R. Williams, a member of the bar of this Court, and the foregoing document(s) was/were printed on recycled paper.

☒ **(FEDERAL)** I declare under penalty of perjury that the foregoing is true and correct.

Executed on **March 31, 2008**.

/s/ Wendy S. Mills

Wendy S. Mills